

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 16127 of Anthony L. Duncan, pursuant to 11 DCMR 3107.2, for a variance from the maximum percentage of lot occupancy requirements (Subsection 403.2) to construct an accessory garage in an R-2 District at premises 2909 10th Street, N.E. (Square 3875, Lot 47).

HEARING DATE : June 19, 1996

DECISION DATE: July 10, 1996

ORDER

SUMMARY OF EVIDENCE:

1. The property that is the subject of this application is located on the east side of 10th Street N.E., between Girard and Hamilton Streets N.E., and comprises one lot of record containing 2,500 square feet of land area. The site is improved with a two-story, semi-detached dwelling. A 15-foot wide alley abuts the site at the rear (east).

2. The area surrounding the site is characterized by a mix of single-family dwellings (detached, semi-detached and row). There are some accessory structures in the rear yards of a number of properties in the area. These structures are too small to be used as garages with the exception of three. The others appear to be used for storage. There are several commercial uses to the south and east (auto repair, convenience stores, etc.). The Crosby Noyes School is located two blocks to the south.

3. The site is located in a R-2 zone district. The R-2 District permits matter of right dwellings with a minimum lot area of 3,000 square feet, a minimum lot width of 30 feet, a maximum lot occupancy of 40 percent, and a maximum height of three stories/40 feet.

4. The applicant is proposing to build an accessory two-car garage and a parking pad at the rear of the property. The proposed garage would be 20 feet deep and 20 feet wide. There would be a parking pad built adjacent to the garage which would be accessed through it. The garage would make the property nonconforming regarding lot occupancy. A variance of 20 percent is requested (198.8 square feet).

5. The applicant contends that a practical difficulty exists in that there are safety concerns caused by the nature of his

neighborhood and that a single-family garage would not be practical. He further offered testimony to show that the proposed relief would not serve as a substantial detriment to the public good, nor would it affect the integrity of the zoning plan.

6. The D.C. Office of Planning (OP) offered evidence to support its recommendation that the variance be denied, as it found that a practical difficulty had not been established. Furthermore, it found that due to the proposed increase in lot occupancy, the accessory garage would have a negative impact on the area and would impair the intent, purpose, and integrity of the R-2 zone district regulations.

7. The ANC 5C neither held a public meeting before a quorum, nor did it vote on the matter, however, its Vice-Chairperson did submit a letter indicating his own, personal approval of the application.

8. A letter in support of the application was also sent in by a person in applicant's neighborhood. In addition two neighbors of the applicant offered testimony in support of the application citing safety considerations present in the neighborhood.

#### FINDINGS OF FACT:

Based on the evidence of record, the Board finds as follows:

1. There is no uniqueness in this property which would distinguish it from neighboring properties to the point where application of the zoning regulations would create a practical difficulty.

2. Inconvenience does not constitute uniqueness.

3. Another, less convenient alternative does exist for the applicant, which may or may not help to address the safety concerns expressed in this application.

#### CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and evidence of record, the Board concludes that the applicant, is seeking an area variance from the maximum percentage of lot occupancy requirements (Subsection 403.2) to construct an accessory garage in an R-2 District at premises 2909 10th Street, N.E. (Square 3875, Lot 47).

The granting of such a variance requires a showing through substantial evidence that the application can be granted when by reason of an exceptional situation, the strict application of the regulation would result in a practical difficulty upon the owner of

the property, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

The Board concludes that a practical difficulty has not been established, that the public good will be adversely affected, and that the proposed relief would substantially impair the intent, purposes and integrity of the Zoning Regulations and Map.

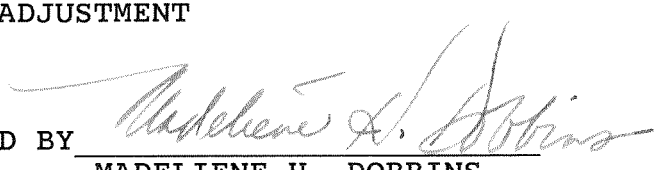
The Board concludes that the applicant has not met the burden of proof for the variance relief requested.

Based on the foregoing, the Board ORDERS that this application is DENIED.

VOTE: 4-0 (Sheila Cross Reid, Laura M. Richards, Herbert M. Franklin, and Angel F. Clarens to approve; Susan Morgan Hinton, not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY

  
MADELIENE H. DOBBINS  
Director

FINAL DATE OF ORDER

JAN 31 1997

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR

CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER  
AND REGULATORY AFFAIRS.

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GOVERNMENT OF THE DISTRICT OF COLUMBIA  
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BZA APPLICATION NO. 16127

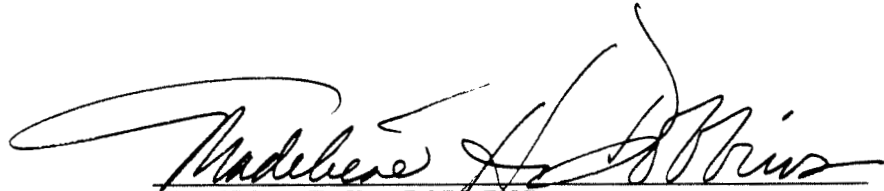
As Director of the Board of Zoning Adjustment, I certify and attest that on JAN 31 1997 a copy of the order entered on that date in this matter was mailed prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

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1723 3rd Street NE  
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MADELIENE H. DOBBINS  
Director

Date: JAN 31 1997